

# MORGANTOWN BOARD OF ZONING APPEALS

## MINUTES

August 16, 2006

6:30 P.M.

City Council Chambers

**Members Present:** Nick Iannone, Bernie Bossio, Mark Furfari, and Jim Shaffer.

**Members Absent:** Jim Rockis.

**Staff Present:** Chris Fletcher, Planning Director.

### **MATTERS OF BUSINESS:**

Motion to move approval of the minutes of June 21, 2006, and July 19, 2006, Regular Meeting minutes and July 11, 2006, Special Meeting minutes until Jim Rockis is present by Bossio, second by Furfari. Motion carried unanimously.

**OLD BUSINESS:** NONE.

### **NEW BUSINESS:**

1. **CU06-09 / Gunno / 1004 Ridgeway Avenue:** Request by Sheryl Beth Gunno for conditional use approval for a home occupation at 1004 Ridgeway Avenue. Tax Map #25, Parcel #380; an R-1A, Single-family Residential District.

Fletcher read the staff report stating that the petitioner seeks to establish a Conditional Use, Class 2 Home Occupation within her home. The proposed enterprise will consist of on-site piano and/or voice instruction limited to one or two clients at a time for periods of 30, 45, or 60 minutes. Please refer to the petitioner's application for additional information concerning the level; and type of services planned.

Fletcher observed that the structure is an owner occupied residence and includes two existing off-street parking stalls. On-street parking is not permitted on Ridgeway Avenue immediately in front of the subject property. Addendum A of this report includes a map illustrating the property location and photographs of the structure and surrounding area.

Sheryl Gunno, applicant, asserted that she is trying to keep up to the standards of the neighborhood and the zoning ordinance.

Furfari inquired if most students will be driven and dropped off.

Gunno replied that most of her students are children that will be driven by their parents.

Furfari asked if she had been doing this for a while.

Gunno responded that she had taught for twelve years in Kansas City and Cincinnati. She recently moved here.

Bossio observed that in paragraph one of the application, no boxes were checked.

Gunno explained why they are all in the negative.

Iannone asked for public comments. There being none, the public portion was closed.

Fletcher read that Table 401.04.01 of the zoning ordinance establishes the minimum off-street parking requirement for home occupation uses as that which is required for the dwelling unit. Two off-street parking stalls are required for single-family detached dwellings, which are provided on the subject property. The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a Conditional Use, Home Occupation Class 2 by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. Staff believes that the petitioner’s request is reasonable and concurs with the “Findings of Fact” as submitted by the applicant. As such, Staff recommends approval as requested.

Fletcher read each Finding of Fact and the Board voted as follows:

#1: Motion to find in the positive by Shaffer, second by Furfari. Motion carried unanimously.

#2. Motion to find in the positive by Bossio, second by Shaffer. Motion carried unanimously.

#3, Motion to find in the positive by Shaffer, second by Bossio. Motion carried unanimously.

#4. Motion to find in the positive by Bossio, second by Furfari. Motion carried unanimously.

Motion to approve the conditional use by Bossio, second by Shaffer. Motion carried unanimously.

- 2. V06-14 / Panico / 225 Chestnut Street:** Request by Joe Panico for variance approval from *Appendix A: Development Standards Table* for property located at 225 Chestnut Street. Tax Map #26A, Parcel #46; a B-4, General Business District.

Fletcher read the staff report stating that the petitioner seeks to construct a multi-family dwelling structure containing eleven (11) units on the subject realty with internal parking at the lowest level. Staff prepared a site plan based on information provided by the petitioner (attached hereto). Mr. Panico seeks to construct the building with zero (0) setback for the rear and sides and a three (3) foot setback for the front. The Zoning Ordinance sets forth in *Appendix A: Development Standards Table* the following related development standards for multi-family residential uses:

Criteria	Standard	Proposed Conditions	Variance Request
Maximum Lot Coverage	90%	97%	7%
Min./Max. Front Setback	0 ft. / 10 ft.	3 ft.	None
Minimum Rear Setback	10 ft.	0 ft.	10 ft.
Minimum Side Setback	5 ft.	0 ft.	5 ft. (each side)

Fletcher advised that the petitioner met with the Technical Review Committee on February 14, 2006, and May 23, 2006. City Department representatives raised several issues concerning the development and submitted documents that require additional information from the applicant (meeting notes and May 30, 2006 email attached). Staff is currently working with the petitioner to address these issues.

Fletcher noted that of primary concern is adequate site vision for vehicles exiting the proposed internal parking area onto Chestnut Street. The Planning and Engineering Departments requested the applicant to stake the proposed building front and coordinate a site visit to ascertain whether or not the façade presents safety issues for exiting vehicles. The petitioner scheduled a site visit for Staff on Friday, August 11<sup>th</sup>. We met with Mr. Panico today, at the site, and identified some design techniques to mitigate some sight vision issues to the satisfaction of the City Engineer. What is being proposed is that the first floor, at grade on Chestnut, most of the building would be recessed 10' from the curb; 6' on his property. The next story, dwelling units, would maintain the proposed frontage of 3'. That section would be cantilevered and allow cars exiting uphill to have sufficient site vision from the right. Addendum A of this report illustrates the location of the subject realty and photograph. In front of you is a letter from the County Commission that will be read into the record after the public comments.

Joe Panico, applicant, proposes a structure that retains the parking lot. It is a 40' X 104' lot. Ten cars can fit beside the building. He wants to maintain the parking on an almost nonconforming lot, only 40' wide. To maintain the 5' side setback he would have to eliminate the side parking. He can eliminate the breezeways to bring down the lot coverage percentage. He doesn't have access to the rear of the property, so he needs the side parking to support the structure.

Bossio questioned not having retail on the first floor and if there was parking for the other building. Panico answered that these would be condominiums for sale; eight one-bedrooms and three two-bedrooms. He would rather keep the parking than put a commercial space there.

Bossio asked if he was having problems renting the retail level and how long it has been vacant.

Panico replied that one space has been vacant for over a year. He has had the property for two years and it has four retail locations.

Bossio asked if parking would be sold separately when you sell the units.

Panico responded yes, it is beside a City parking garage and the PRT.

Bossio inquired why he mentioned it being beside the PRT.

Panico said that it's an asset. He is willing to sacrifice the commercial space for value.

Bossio said that you keep talking about how important the parking is but you're willing to sell units without parking.

Panico replied if I can.

Shaffer was confused about where the egress is for the building.

Panico explained that the egress to the lot will remain the where it is. The right side will have the door to the building.

Bossio wondered about the height accommodation when you pull a car in.

Panico replied the minimum would be 7½', the maximum may be 8'.

Bossio stated that a UPS truck would never fit. I'd almost rather you have no parking there because Chestnut Street is very narrow there. He asked the Planner for the width of Chestnut Street.

Fletcher didn't have it on this portion of the tax map. There is enough to accommodate two lanes. Chestnut is probably 20' wide.

Bossio commented that he is working with some new concepts and the narrowness of Chestnut Street. He didn't know the units were to be sold; but nearness to the PRT is an asset. He asked about pull-off areas and where does a delivery truck park now.

Panico answered that they just park in front. There is parking in front of the KC building.

Fletcher clarified the parking spaces on Chestnut Street and that the street widens at Chancery Row. That section in front of the Knight's is where it is narrow, but there is enough for one lane of parking and one lane of through.

Panico added that being one-way is a plus and it is not a highly traveled street. He never had a problem in two years. The City Engineer is very satisfied with the agreement we made.

Iannone was curious about why the Planning Department seemed so adamant about commercial space being on the street level on other applications.

Fletcher answered that he did not know if you could have residential at street level under the old ordinance. Multi-family was a permitted use when he came in; now it is a conditional use. He thinks that it is preferred but there is no access to residential from the front and that there are storefronts at the street level.

Bossio commented on Mode Roman wanting to put apartments on the street level. We turned them down because we wanted to maintain commercial on the main level.

Fletcher replied that the strongest advocate for having business frontage is Teri Cutright of Main Street and she didn't voice strong opposition; probably since it is on a secondary route.

Bossio asked if he would consider getting rid of the parking and create more apartments on that level.

Panico advised that he doesn't think that's wise; parking is an obvious asset. All I'm asking for is lot coverage, side and rear setback variances.

Bossio commented that he did not have to do a traffic study because he didn't go above so many units. He asked for clarification that these may be purchased mainly by students.

Panico replied that they are available to anybody. What I don't sell; I keep.

Bossio asked for the total of bedrooms.

Panico said there are 16 bedrooms. He would rather reduce the number of units than lose the parking.

Bossio questioned that even though you would sell them without the parking.

Panico answered that if somebody will buy it, why shouldn't I?

Iannone asked for public comments.

George Armistead, owner of Lot #43, asserted that he is the guy who gets the spillover from all the places that don't have parking. If the Kane Core building wasn't going up, I wouldn't be here. Mr. Panico has a good reputation as a landlord. He described the building and the five-car parking lot behind. He wanted to make sure the Board is aware of what you are doing down there. The width of the street is pretty open now, to and from the parking lot. He has trespassers in his parking lot all the time. If the Kane-Core building goes up, Chestnut will be the primary pedestrian route to campus. Lots #34 and #35 are the parking lot behind the bank. There is difficulty when coming out of the bank lot onto Chestnut. He applauded Joe for keeping his parking or for lowering the number of units. He is about 75' away from Mr. Panico's property.

Bossio asked approximately how wide the sidewalk in front of the KC building is and if it is consistent in front of Mr. Panico's building.

Armistead answered four feet.

Panico added that he is going to have a 6' setback.

Iannone remarked that 6' beyond the 4' sidewalk is 10'.

Bossio asked for clarification that Chestnut Street is not convenient for pedestrians.

Armistead responded that it is a matter of degree; how many kids are too many downtown without parking before it turns into side streets. If Kane-Core is not there, this wouldn't be a concern. I think we'll have too high a concentration.

Bossio inquired if the Kane-Core project is built, do you think Chestnut Street could be changed for pedestrian traffic to campus?

Armistead replied that it should be looked at, but you can't change the KC building.

Bossio asked that since the PRT station is right there on the corner. . .

Armistead interjected that I don't think it eliminates the demand for the cars. People want cars and you need the parking lots.

Bossio asserted that when making decisions, this Board has to look at everything and be consistent and fair to everybody.

Jan Kiger, Adventures Edge, is concerned about the relief of the setbacks because it puts the building on the top of the back of my building and the unsavory behavior that goes on behind her building. She was unaware of the zero setbacks for commercial space. She is concerned about the traffic pattern on Chestnut Street; Kane-Core's traffic flow will be pretty extreme on Chestnut Street. The sidewalk is maybe two feet wide on Chestnut above my store and with no sidewalk on the other side. There is no geographical reason for the setbacks to be waived. She would like to see him cut down the units and have parking to match.

Iannone asked Mr. Panico if he wanted to rebut.

Panico responded that Mr. Armistead is here to protect his interest in his parking; he says he is worried about encroachment on his five spaces. As for concerns about sidewalk, that's City right-of-way, I have no control over that. I should have the same rights of ownership as everyone else here. As to the setbacks, if I cut in five more feet to accommodate Ms. Kiger, there is not enough room to have parking. These people came in the sense of opposition and are actually showing support of my keeping the parking. Kane-Core doesn't have any bearing. I have 16 people and no comparable impact.

Furfari asked what is the setback of the Knights' building.

Panico answered zero; the windows are a breezeway between the buildings; stairs and an elevator connect two free-standing buildings.

Furfari clarified that you are connecting the two buildings.

Panico indicated that they will be touching each other with the common areas.

Fletcher read the following letter from the County Commission into the record:  
The Court House being within the 200' area, they received a notification letter.

Dear Board Members:

The Monongalia County Commission is in receipt of your notice regarding a request for variance approval from Appendix A: Development Standards Table for 225 Chestnut Street, Tax Map 26A, Parcel 46, as submitted by Joe Panico.

Following a discussion during the County Commission meeting held on Monday, August 7, the Commissioners wanted to submit written comments.

Although the request is related to land use and boundary setbacks, the Commission is hopeful the city has taken into consideration the fact that there may be a potential for parking problems, inasmuch as we understand that the property to be used is currently a parking lot for what is known as the K of C Building on Chestnut Street.

That portion of Chestnut Street is extremely narrow and not conducive to larger vehicles and trucks loading or unloading at this location and other public parking in the area is extremely limited.

Thank you for the opportunity to comment.  
For the Commission,  
Diane DeMedici  
County Administrator  
Monongalia County Commission

Fletcher advised that he did call Diane DeMedici and did explain that parking would be provided. That was informative to her.

Iannone asked Ms. Kiger for clarification that her main concern was encroachment to her building and if it might be advantageous to create an alley between the two buildings.

Kiger thought the sight lines were limited; he's going to create a worse situation with any building there.

Iannone noted that, regardless of the setback, you feel it would negatively affect your building.

Kiger is not opposed to an apartment building there, but wants more open space for people to be seen.

Iannone observed that a few feet are not going to provide much visual conscience to that area.

Kiger said the retaining wall is now falling into my lot; it will be interesting to see how the building is supported.

Iannone asserted that one of the other issues talked about here will impact that situation as well. The more people on the street, the safer the streets become. Perhaps that is the remedy you seek.

Fletcher asked Mr. Panico to show the balconies at the rear. There may be the sense that someone could come out and see what they're doing as opposed to the back of a building.

Bossio agreed that studies show that the more foot traffic we have, the problem situations decrease. Jan mentioned she will take advantage of the camera system available through Main Street Morgantown. From personal experience, we've gone from major problems to virtually zero problems within thirty days.

Armistead asserted that cameras won't help keep kids off my roof from the place next door.

Furfari asked Ms. Kiger how far from the rear property line is your building and do you have access to the rear of your building.

Kiger replied maybe four or five feet. There is no door there now.

Bossio asked if once Mr. Panico builds his building, could you put a chain-link gate there so there could be no traffic.

Iannone asked for further public comments. There being none, the public portion was closed.

Fletcher explained that the Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. It is the opinion of the Planning Department the BZA should exercise caution when considering the “Findings of Fact” so that each conclusion (1. rear and side yard setbacks; 2. lot coverage) is adequately justified. Although related, each issue presents unique considerations. Staff submits the following recommendations:

- Staff supports the proposed lot coverage variance request as it relates more to the geometry of the proposed structure, the typography of the lot, and the design and configuration of internal parking spaces (i.e., a reduction in dwelling units will not necessarily decrease the proposed building envelope because of internal parking design requirements). However, the proposed front setback of three (3) feet may present safety hazards to vehicles exiting from the internal parking area onto Chestnut Street. This hazard may be mitigated through building design modification and/or an increase in front setback. Should the lot coverage variance be granted, Staff recommends that it be conditioned upon the mitigation of potential site vision hazards to the satisfaction of the City Engineer and the Planning Director?
- Staff supports the side and rear setback variance requests as they are consistent with development patterns of existing buildings located on smaller lots within the B-4 District.

Fletcher clarified finding for the setback issue and for the lot coverage issue. The setback requirements were non-existent for the building adjacent to it.

Fletcher read each Finding of Fact and, after discussion, the Board revised them to read as follows:

#1: There are exceptional and extraordinary circumstances and conditions that are applicable to this property because of the narrowness of the lot and the setback and development patterns of the existing area.

Motion to find in the positive by Bossio, second by Shaffer. Motion carried 3-1.  
(Furfari voted No.)

#2. The proposed setbacks and lot coverage will be consistent with existing neighborhood buildings in the General Business District and striking the second sentence.



Motion to find in the positive by Bossio, second by Furfari. Motion carried unanimously.

#3, The developer, in consultation with the City Engineer, will make design modifications to mitigate any and all vehicular and pedestrian circulation hazards.

Motion to find in the positive by Bossio, second by Shaffer. Motion, as stated, failed to receive a majority vote. (Bossio and Iannone voted Yes, Furfari and Shaffer voted No.)

#4. Motion to find in the positive, as presented, by Furfari, second by Shaffer. Motion carried unanimously.

Motion to table the request by Furfari, second by Shaffer. Motion carried 3-1. (Bossio voted No.)

**3. V06-15 / Fiorini / 732 Beechurst Avenue:** Request by Fred Fiorini for variance approval from *Appendix A: Development Standards Table* for property located at 732 Beechurst Avenue. Tax Map #15, Parcels #186-187; a B-2, Service Business District.

Fletcher read the staff report stating that the petitioner seeks to construct an 8' X 7' laundry room onto an existing mixed-use structure (four dwelling units over non-residential uses) on the subject realty. The proposed site plan (attached hereto) illustrates a fifteen (15) foot encroachment into the required forty (40) foot rear setback. As such, the petitioner must obtain a fifteen (15) foot variance from the rear setback standard as set forth in *Appendix A: Development Standards Table* of the Zoning Ordinance. The existing mixed-use structure is situated approximately seventeen (17) feet from the rear property line, encroaching into the required rear setback by approximately twenty-three (23) feet. Addendum A of this report illustrates the location of the subject realty, photographs, and a map illustrating B-2 setback trends within the immediate area.

Fred Fiorini, applicant, stated that they has been losing potential tenants because we do not have a laundry facility.

Bossio inquired if it will be a coin-operated facility.

Fiorini replied that had not been decided yet. It will be a key operated facility; no one else will have access.

Iannone asked for public comments. There being none, the public portion was closed.

Fletcher read that the Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. Staff believes that the petitioner's request is reasonable and concurs with the "Findings of Fact" as submitted by the applicant. As such, Staff recommends approval as requested.

Furfari requested clarification that the variance is for the rear and not the side.

Motion to accept the “Findings of Fact” as submitted by Furfari, second by Shaffer. Motion carried unanimously.

Motion to approve the request with the condition that if the Laundromat is ever open to the public that the parking be re-evaluated, by Bossio, second by Furfari. Motion carried unanimously.

4. **V06-16 / CDL Properties (David Lusty) / 405 High Street:** Request by David Lusty, representing Jimmy John’s Gourmet Sandwiches, for variance approval from the Zoning Ordinance, 403.07, Conditions for Permitted Signs, I.1, as it relates to sign size at 405 High Street. Tax Map #26, Parcel #87; a B-4, General Business District.

Fletcher read the staff report stating that Jimmy John’s, a gourmet sandwich enterprise, is seeking to occupy a vacant storefront at 405 High Street (formerly D.P. Dough). The petitioner seeks to remove the existing awning and erect a 29.5 square foot wall sign. The sign will be opaque with neon illuminated channel letters (see attached rendering). Article 403.07 (I) (1) of the Zoning Ordinance restricts the maximum area of permitted wall signs in the B-4 District to 0.4 square feet for each linear foot of storefront. The linear store frontage at this location is fifteen (15) feet. Therefore, the applicant may not exceed six (6) square feet without obtaining a variance of 23.5 square feet from the Board. The petitioner met with the Downtown Design Review Committee on July 26, 2006, and obtained an approval recommendation to the BZA. The following table illustrates the signage area and linear storefront trends of commercial establishments along High Street from Coomb’s Florist north to Daniel’s Clothing:

Establishment	Frontage (approx. linear ft.)	Sign Area (approx. ft <sup>2</sup> )	Sign Area/Frontage Ratio
Coomb’s Florist	20 ft	12 ft <sup>2</sup>	0.6
Former D.P. Dough	15 ft	NONE	N/A
Slight Indulgence	15 ft	41.25 ft <sup>2</sup>	2.75
Sugar Britches	15 ft	12 ft <sup>2</sup>	0.8
Daniel’s Clothing	40 ft	36 ft <sup>2</sup>	0.9
<b>Jimmy John’s (proposed)</b>	<b>15 ft</b>	<b>29.5 ft<sup>2</sup></b>	<b>1.97</b>

David Lusty, applicant, corrected the typographical error on the address and asserted that he sells excellent gourmet sandwiches. We want people to know we sell gourmet sandwiches. He introduced the store manager and the landlord, and gave a biography of his community involvement in Athens, OH. Jimmy John’s is a franchise but the concept is new to the Morgantown community. Mr. Lusty passed out some materials to the Board and presented a new measurement for Coombs Florist that had 17.6 ft<sup>2</sup> and a ratio of .85. The actual frontage of the building, rather than just the store, is 20’. He requested consideration of the proposal for several reasons. The Design Review Committee forwarded unanimous approval to the Board at the July 26<sup>th</sup> meeting. Mr. Lusty quoted wording in the Zoning Ordinance and reiterated that just having Jimmy John’s above the door does not communicate that we sell sandwiches. The backlit, aluminum channel sign will not rust, tear, mold, or mildew. He heard discussion about incentive for retail; he is in the retail business of selling great sandwiches and we ask that we have a neon sign that will not create noise or

pollution. He listed the answers and reasoning for each “Finding of Fact”. He described the photos and asked to keep gourmet sandwiches underneath since they are providing a new brand to the community. This is the first Jimmy John’s in West Virginia and most people don’t know what Jimmy John’s is. “Gourmet sandwiches” is a very clear indication of what my business would do.

Shaffer asked for clarification that the Atlas Sign Co. proposal is what is requested.

Lusty replied that Atlas is the approved vendor for Jimmy John’s. It is actually superimposed over a picture of the building. The other two are examples of other Jimmy John’s stores.

Bossio inquired why the one did not say gourmet sandwiches.

Lusty answered that it was not part of the corporate branding at that time.

Bossio commented that the Jimmy John’s in Washington, PA was closer than Pittsburgh.

Iannone inquired why the Planning Department went against the Design Review Committee recommendation.

Fletcher answered that there were several proposals submitted to Design Review and they did not disagree with their selection. The ordinance is pretty clear and Staff’s responsibility is to make it clear there are requirements and to point out what the existing conditions are around it. The Staff Report clearly says that we agree there should be some relief. The question is to what degree.

Iannone asked for public comments.

Gene Perilli, landlord, said that he and his wife own the building and are particular about what hangs there. They were impressed with Mr. Lusty and feel they will be a long-term tenant and an asset to our community. They request that the sign be able to be enlarged.

Iannone asked for public comments. There being none, the public portion was closed.

Fletcher read that the Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. One of the stated purposes within the Zoning Ordinance for sign regulations is to:

“encourage the effective use of signs as a means of communication in the City, to maintain and enhance the pleasing look of the City, which attracts to the City continued economic investment; to preserve Morgantown as a community that is attractive to business, to residents and to visitors...” (Article 403.01)

Size restrictions are one of several means to accomplish this policy objective. Additionally, the City has undertaken a significant investment to improving the streetscape within this block of High Street. It is the opinion of the Planning Department that relief from the maximum area standards should be considered for the petitioner, particularly when

reviewing signage trends listed above. However, a variance of 23.5 square feet appears excessive and a more reasonable variance should be considered.

Excluding Sugar Britches, the average sign ratio for the listed establishments is 0.77. The following table illustrates alternate ratios that appear more compatible with the prevailing signage trend of the immediate area:

Frontage (approx. linear feet)	Suggested Sign Area (approx. ft <sup>2</sup> )	Sign Area / Frontage Ratio	Required Variance
15 ft	9 ft <sup>2</sup>	0.6	3 ft <sup>2</sup>
15 ft	11.6 ft <sup>2</sup>	.77	5.6 ft <sup>2</sup>
15 ft	12 ft <sup>2</sup>	0.8	6 ft <sup>2</sup>

Attached is a photograph of a Jimmy John's storefront in Parkersburg, WV, that illustrates a sign configuration which could be achieved within the parameters suggested above. Additionally, signs hanging or standing inside a building and visible from a public street, but not attached to a window or door, are exempt from the Zoning Ordinance. As such, copy which may be omitted within a more reasonable variance could be displayed internally, as illustrated for the Parkersburg location. Staff concurs with the "Findings of Fact" as submitted by the petitioner but recommends that a size variance be granted that better reflects existing signage characteristics of the immediate area and respects the policy objectives of the Zoning Ordinance and the City's High Street Streetscape Improvement project.

Fletcher added that the area computation is new under the January 3<sup>rd</sup> ordinance, so all the signs are nonconforming as they existed prior to the standard. The 0.4 square foot in B-4 is difficult to meet and he expects it to be re-evaluated as a text amendment. 6 square feet is not enough signage for a building like that.

Furfari remarked that he has a 40' front on a building with a 6 square foot sign; so it can be done.

Iannone asked why Planning is considering the storefront to be only that portion of the building with the large windows instead of the full width of the building as part of the frontage area.

Fetcher read from the ordinance that "The total area of all wall signs on a building shall not exceed 0.6 of the wall sign area per linear foot of tenant building frontage in the B-5 and I-1 Districts and 0.4 square feet in B-1 and B-4 Districts for linear foot of building frontage.: For whatever reason, in B-1 and B-4, we're to look at the building frontage so my calculations would be slightly modified. We've always looked at the tenant building frontage and that was an error in the Staff Report. The numbers are going to be modified slightly by going from 15 to 20.

Furfari calculated it to be 7.2 square feet. He is asking for 29.5 which is a 22.3 variance.

Bossio thanked Mr. Lusty for the photos and noted the windows are pretty full. He asked if there was going to be stuff in the windows and mentioned that it doesn't fall under the sign ordinances.

Lusty answered yes; the windows are not regulated in Parkersburg or Athens, either.

Bossio inquired what the space in the windows will be used for.

Lusty replied that they would be kind of slogan signs similar to those in the photos. He is constrained by your laws and what the franchiser says he has to do. They have to live with what you approve.

Fletcher advised this was a soft disagreement in the Staff Report and he wasn't necessarily suggesting that gourmet sandwiches be removed. I referred to this particular one and was interested in getting the circle logo dropped down to the window as it is here; which keeps your Jimmy John's Gourmet Sandwiches at the current size it is now and reduces the overall signage by getting rid of the logo. I should have been more specific in the Staff Report.

Lusty responded that the corporate guys would strongly object to moving the circle logo.

Bossio inquired if there is any differentiation between against the wall and cantilevered on a pole.

Fletcher answered yes; it needs to be so many inches away from the wall to be considered a wall sign.

Bossio asked if you swing it out and put it on a pole, how many feet are you allowed.

Fletcher read for suspended signs, "Such signs shall be allowed in addition to wall signs provided that such signs shall not exceed six square feet of total edge area which shall not count toward the total maximum sign area allowed." In a B-4, you could have six feet on the wall and six feet sticking out.

Shaffer commented that Design Review unanimously approved the sign and, from the calculations, the signs beside and across the street are much larger.

Motion to accept the "Findings of Fact" as submitted by Shaffer, second by Bossio. Motion carried unanimously.

Motion to approve the request with the provision that they won't come back and ask for any additional signage attached to the building in any way by Bossio, second by Shaffer. Motion carried 3-1. (Furfari voted No.)

5. **CU06-08 / Cruzzavala / 1158 Parkview Drive:** Request by Elisabeta Cruzzavala for conditional use approval for a Bed and Breakfast facility in an R-1 District for property located at 1158 Parkview Drive. Tax Map #10, Parcel #20; an R-1, Single-family Residential District. **(Withdrawn by the applicant)**

**OTHER BUSINESS:****Public Comments:**

Frank Ferrell, 26 Outlook Street, is in favor of Joe Panico's request on Chestnut Street, but questioned procedures. He asserted that a tie vote is a negative vote; they cannot table the case after that; and he may challenge this. Interpretation of the Zoning Ordinance is for Administrative Appeals not the City Planner. He also stated that when a new building is over ten stories and has to come before the Board, they should impose a condition of parking even if no parking is required.

**Staff Comments:** NONE.

**ADJOURNMENT:** 9:40 p.m.